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RIGHTS OF THE CHILD

Joint written statement submitted by the International Save the Children Alliance, a non-governmental organization in consultative status (category I), and the Friends World Committee for Consultation (Quakers), a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[30 January 1995]

Children in armed conflicts

1. By resolution 1994/91, adopted by consensus, the Commission on Human Rights last year decided to establish an open-ended inter-sessional working group to elaborate, as a matter of priority, a draft optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts. Resolution 1994/91 was co-sponsored by Angola, Australia, Austria, Barbados, Belgium, Bulgaria, Cameroon, Colombia, Costa Rica, Cuba, Cyprus, the Czech Republic, Denmark, Ecuador, Ethiopia, Finland, the Gambia, Germany, Greece, Guinea-Bissau, Hungary, Iceland, Italy, Kenya, Latvia, the Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Mexico, the Netherlands, Nigeria, Norway, Peru, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, Senegal, Slovakia, Slovenia, Spain, Swaziland, Sweden, Switzerland, Togo, Uruguay, Venezuela, Viet Nam and Zimbabwe.

2. At its Triennial Meeting in 1979, the Friends World Committee for Consultation (FWCC), the representative body for world Quakerism, expressed its abhorrence of the widespread involvement of children in military training and armed conflicts. Since 1985, FWCC has submitted information on child soldiers to the United Nations and campaigned for improved international standards and mechanisms to reduce and eventually eliminate the use of children in armed forces. FWCC and the International Save the Children Alliance (ISCA), therefore, welcome the decision to draft an optional protocol on this subject and the wide support given to this initiative.

3. In his statement to the United Nations General Assembly's Third Committee on 11 November 1994, Mr. James Grant, the late Executive Director of UNICEF, stressed the need to put an end to the participation of children in armed conflicts. He pointed out, "These children are sometimes forcibly recruited, but more often join warring factions for survival. Many have seen their own parents cruelly murdered. Terrible things have been done to these children, and the children themselves have done terrible things, taking part in the atrocities of war." He expressed support for raising the minimum age for recruitment into armed forces to 18 years by means of the proposed optional protocol.

4. FWCC and ISCA welcome the progress made on the draft optional protocol during the meeting of the working group held from 31 October to 11 November 1994. 1/ In particular, the broad measure of agreement on raising to 18 years the age for compulsory recruitment and for participation in hostilities was encouraging, thus setting a clear and unequivocal standard. However, a number of problems remain.

5. In particular, difficulty arose about the issue of volunteers into governmental armed forces. An exception to the general prohibition on recruitment of under 18s was proposed for volunteers for educational or military training purposes. However, a few States wished to continue to take volunteers of 15, 16 or 17 not only for educational or training purposes. In addition, a small number of States expressed a preference for raising the minimum age for participation in hostilities to 17 rather than 18 years, for which their own current practice was the only justification given.

6. The two issues are related since, if no under-18s are permitted in the armed forces except for education or training, they should not be participating in hostilities. Furthermore, although some States were willing to support an obligation to prevent the participation in hostilities of their under 18-year-old volunteers, the ability to implement such a prohibition in practice is questionable if such young people are integrated with the others. More generally, the degree of voluntariness varies considerably and may include subtle forms of coercion from the surrounding environment. In this context, it is worth noting that international law has precedents for restricting admission to certain forms of employment. International Labour

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1/ A "Report on the Working Group to draft an Optional Protocol to the Convention on the Rights of the Child on participation of children in armed conflict" is available from the Quaker United Nations Office, 13 Avenue du Mervelet, 1209 Geneva, Switzerland.

Organisation Convention No. 138 (1973) on minimum age of employment, sets 18 years as the minimum age for work likely to jeopardize the health, safety or morals of young persons, a designation that would appear to be appropriate for involvement in armed conflicts.

7. A number of States proposed that the prohibition on participation in armed conflicts should only extend to taking a direct part in hostilities. However, it is doubtful whether this would provide sufficient protection as many child soldiers start out in support functions, such as porters or messengers, and even in regular governmental armed forces, the young cook or engineer may be as much at risk as the soldier or naval officer.

8. We welcome the effort to prohibit and specify the State responsibility for enforcing, all recruitment and participation in hostilities of under 18-year-olds in non-governmental armed forces. The importance of addressing this area is clear from the widespread involvement of under-18s in such armed groups. Furthermore, by placing an obligation on States who become parties to the optional protocol to take measures to implement such a prohibition, it becomes possible to address the situations where the armed group is recruiting in and/or operating from another State. Recruitment from refugee camps is a typical example of such armed group activity.

9. We believe that the need for further standard-setting in this area is balanced by the need for better implementation of standards. We welcome, therefore, the proposal that the Committee on the Rights of the Child should be able to initiate an inquiry if it receives reliable information that appears to it to contain well-founded indications that recruitment or use of children in hostilities is being practised in the territory of a State party to the optional protocol.

10. The legal standards in relation to involvement of children in armed conflicts cover only one aspect of this issue. The expert study on the impact of armed conflict on children (pursuant to General Assembly resolution 48/157) provides an opportunity to consider this and related issues more broadly, and to seek ways to reduce the detrimental effects of armed conflicts on children. FWCC welcomes the appointment of Graça Machel as the expert to undertake this study, in collaboration with UNICEF and the United Nations Centre for Human Rights. The broad-based cooperation she has sought from specialized agencies, intergovernmental and non-governmental organizations and others promises to make the study as comprehensive and effective as possible. In resolution 48/157, the General Assembly invited the Commission on Human Rights to consider the study at its fifty-first session.

11. Friends World Committee for Consultation and the International Save the Children Alliance urge the Commission to:

(a) Welcome the progress made on the drafting of an optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts;

(b) Request the Secretary-General to transmit the report of the working group to Governments, specialized agencies, intergovernmental and non-governmental organizations, the Committee on the Rights of the Child, the

International Committee of the Red Cross, and the expert appointed to undertake the study on the impact of armed conflict on children and to invite their comments thereon in time for circulation prior to the next session of the working group;

(c) Decide to reconvene the working group for a further two-week session during 1995 in order to complete the drafting of the optional protocol;

(d) Welcome the opportunity to consider the study on the impact of armed conflict on children at its fifty-first session; and

(e) Decide to give further consideration to the study at its fifty-second session prior to the submission of the completed study to the General Assembly at its fifty-first session.